

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-KC-505
	)	
Qwest Corporation	)	NAL/Acct. No.200232560021
Owner of Antenna Structure #1038666 near	)	
Winterset, Iowa	)	FRN 0001-6169-29
Littleton, Colorado	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** July 24, 2002

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Qwest Corporation (“Qwest”), owner of antenna structure #1038666, apparently liable for a forfeiture in the amount of two thousand dollars (\$2,000) for willful violation of Section 17.4(g) of the Commission's Rules (“Rules”).<sup>1</sup> Specifically, we find Qwest Corporation apparently liable for failure to post the registration number for this antenna structure.

**II. BACKGROUND**

2. On June 25, 2002, the antenna structure associated with FCC registration number 1038666 and located near Winterset, Iowa was inspected by an agent of the Commission's Kansas City Field Office (“Kansas City Office”). At the time of inspection the registration number for the structure was not posted.

3. On July 2, 2002, Qwest employees Jim Perry and Belita Harpool were interviewed by an agent of the Kansas City Office via telephone. According to Ms. Harpool, she is the contact person Qwest has assigned to handle issues relating to this structure. During the interview Ms. Harpool stated that Mr. Perry was in charge of the antenna site. Also during the interview, Mr. Perry stated that, to the best of his knowledge, the registration number has never been posted at that site.

**III. DISCUSSION**

4. Section 17.4(g) requires the antenna structure registration (“ASR”) number be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. On June 25, 2002, an inspection of Qwest's antenna structure #1038666 found no registration number posted. An interview with Qwest employee, Jim Perry, indicated no number had ever been posted at the site.

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<sup>1</sup> 47 C.F.R. § 17.4(g).

5. Based on the evidence before us, we find Qwest willfully<sup>2</sup> violated Section 17.4(g) of the Rules by failing to display the antenna structure registration number.

6. The Rules do not establish a base forfeiture amount for failure to post the antenna structure registration number.<sup>3</sup> The Commission has determined, however, that an appropriate base forfeiture amount for failure to post the ASR number is \$2,000 per violation.<sup>4</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup> Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$2,000.

#### IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> Qwest Corporation is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of two thousand dollars (\$2,000) for willful violation of Section 17.4(g) of the Rules by failing to display the antenna structure registration number.

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<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . .” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>3</sup> See *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* (“*Forfeiture Policy Statement*”), 12 FCC Rcd 17087 (1997), *recon. denied* 15 FCC Rcd 303 (1999). The *Forfeiture Policy Statement* states that “... any omission of a specific rule violation from the ... [forfeiture guidelines] ... should not signal that the Commission considers any unlisted violation as nonexistent or unimportant. *Forfeiture Policy Statement*, 12 FCC Rcd at 17099. The Commission retains the discretion, moreover, to depart from the *Forfeiture Policy Statement* and issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act. *Id.*

<sup>4</sup> *American Tower Corporation*, 16 FCC Rcd 1282 (2001).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Qwest Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

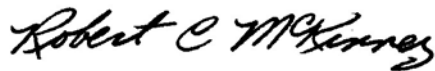
9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Qwest Corporation, 700 W. Mineral Avenue, Room CO G1.24, Littleton, Colorado 80120.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Robert C. McKinney". The signature is written in a cursive, flowing style.

Robert C. McKinney  
Kansas City Office, Enforcement Bureau

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<sup>8</sup> See 47 C.F.R. § 1.1914.